



MISSOURI DIVISION OF FIRE SAFETY

MISSOURI FIREWORKS REGULATIONS

August 1, 2012



DEPARTMENT OF PUBLIC SAFETY
MISSOURI DIVISION OF FIRE SAFETY
OFFICE OF THE STATE FIRE MARSHAL

P.O. Box 844
Jefferson City, Missouri 65102
(573)751-2930
Fax: (573)526-4600
www.dfs.dps.mo.gov

NOTICE

This booklet contains the Missouri law, including the most recent legislative changes.

If you are involved in Missouri's fireworks industry it is your responsibility to be familiar with and know the law as outlined in this booklet.

Revised: 08/01/12

Missouri Revised Statutes

Fireworks Regulations

320.106.

Definitions.

As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the following terms mean:

- (1) "American Pyrotechnics Association (APA), Standard 87-1", or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;
- (2) "Chemical composition", all pyrotechnic and explosive composition contained in fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;
- (3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, within 49 CFR Part 172;
- (4) "Discharge site", the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;
- (5) "Dispenser", a device designed for the measurement and delivery of liquids as fuel;
- (6) "Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0333 or UN0334 or UN0335, within 49 CFR Part 172;
- (7) "Display site", the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;
- (8) "Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;
- (9) "Fireworks", any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United States Department of Transportation hazardous materials regulations;
- (10) "Fireworks season", the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;
- (11) "Jobber", any person engaged in the business of making sales of consumer fireworks at wholesale or retail within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;
- (12) "Licensed operator", any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;
- (13) "Manufacturer", any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;
- (14) "NFPA", National Fire Protection Association, an international codes and standards organization;
- (15) "Permanent structure", buildings and structures with permanent foundations other than tents, mobile homes, and trailers;
- (16) "Permit", the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;
- (17) "Person", any corporation, association, partnership or individual or group thereof;
- (18) "Proximate fireworks", a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as classified within 49 CFR Part 172 as UN0431 or UN0432;

- (19) "Pyrotechnic operator" or "special effects operator", an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;
- (20) "Sale", an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;
- (21) "Seasonal retailer", any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subdivision (10) of this section;
- (22) "Wholesaler", any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

320.111.

Manufacture, distribution and sale, permit required--issuance, display of, duration--powers and duties of state fire marshal, inspections--fees--rights and obligations of permit holders--rules, procedure--penalty for violation.

- 1. It is unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into or within the state of Missouri except as herein provided any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler, jobber or seasonal retailer from the state fire marshal and applicable federal permit or license. Possession of said permit is a condition precedent to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the state of Missouri, except as herein provided. This provision applies to nonresidents as well as residents of the state of Missouri.
- 2. The state fire marshal has the authority and is authorized and directed to issue permits for the sale of fireworks. No permit shall be issued to a person under the age of eighteen years. All permits except for seasonal retailers shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December of each year.
- 3. Permits issued must be displayed in the permit holder's place of business. No permit provided for herein shall be transferable nor shall a person operate under a permit issued to another person or under a permit issued for another location. Manufacturer, wholesaler, jobber, and distributor permit holders operating out of multiple locations shall obtain a permit for each location.
- 4. Failure to make application for a permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a license to the licensee or applicant for such calendar year.
- 5. Any false statement or declaration made on a permit application may result in the state fire marshal's refusal to issue such permit to the requesting person for a period of time not to exceed three years.
- 6. The state fire marshal is authorized and directed to charge the following fees for permits:
 - (1) Manufacturer, a fee of seven hundred seventy-five dollars per calendar year;
 - (2) Distributor, a fee of seven hundred seventy-five dollars per calendar year;
 - (3) Wholesaler, a fee of two hundred seventy-five dollars per calendar year;
 - (4) Jobber, a fee of five hundred twenty-five dollars per calendar year per sales location;
 - (5) Seasonal retailer, a fee of fifty dollars per calendar year per sales location;
 - (6) Display fireworks, a fee of one hundred dollars per calendar year per location;
 - (7) Proximate fireworks display permit, a fee of one hundred dollars per calendar year per location;
 - (8) Licensed operator, a fee of one hundred dollars for a three-year license;
 - (9) Pyrotechnic operator, a fee of one hundred dollars for a three-year license.
- 7. A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell display, or proximate fireworks.
- 8. A holder of a distributor's permit shall not be required to have any additional permits in order to sell to wholesalers, jobbers, seasonal retailers or to sell display, or proximate fireworks.

9. A holder of a jobber's permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobber's permanent structure.
10. All fees collected for permits issued pursuant to this section shall be deposited to the credit of the fire education fund created pursuant to section 320.094. Any person engaged in more than one permit classification shall pay one permit fee based upon the permit classification yielding the highest amount of revenue.
11. The state fire marshal is charged with the enforcement of the provisions of sections 320.106 to 320.161 and may call upon any state, county or city peace officer for assistance in the enforcement of the provisions of sections 320.106 to 320.161. The state fire marshal may promulgate rules pursuant to the requirements of this section and chapter 536, RSMo, necessary to carry out his or her responsibilities under this act* including rules requiring training, examination, and licensing of licensed operators and pyrotechnic operators engaging in or responsible for the handling and use of display and proximate fireworks. The test shall incorporate the rules of the state fire marshal, which shall be based upon nationally recognized standards. No rule or portion of a rule promulgated pursuant to this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.
12. The state fire marshal, upon notification by the department of revenue, may withhold permits from applicants upon evidence that all state sales taxes for the preceding year or years have not been paid; except, this subsection shall not apply if an applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.
13. A holder of a distributor, wholesaler, or jobber's permit shall be required to operate out of a permanent structure in compliance with all applicable building and fire regulations in the city or county in which said person is operating a fireworks business. Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations. The applicant may be subject to a fire safety inspection by the state fire marshal based upon promulgated rules and regulations adopted by the state fire marshal.
14. It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the state fire marshal for the current permit period. A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided that such seasonal retailer is purchasing the consumer fireworks for resale in this state.
15. The state fire marshal and the marshal's deputies may conduct inspections of any premises and all portions of buildings where fireworks are stored, manufactured, kept or being offered for sale. All persons selling, offering for sale, barter, gift, exchange, or offer thereof any fireworks shall cooperate fully with the state fire marshal and the marshal's deputies during any such inspection. This inspection shall be performed during normal business hours.
16. In addition to any other penalty, any person who manufactures, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into the state of Missouri, for use in Missouri, any items of fireworks without first having the required applicable permit shall be assessed a civil penalty of up to a one thousand dollar fine for each day of operation up to a maximum of ten thousand dollars.

320.116.

Revocation and refusal of permits, when--illegal fireworks seized as contraband, return of, procedure, costs--review of action by state fire marshal, how.

1. The state fire marshal may revoke any permit issued pursuant to sections 320.106 to 320.161 upon evidence that the holder has violated any of the provisions of sections 320.106 to 320.161.
2. The state fire marshal, in his or her discretion, may refuse to issue a permit, for a period not to exceed three years, to a person whose permit has been revoked for the possession or sale of illegal fireworks, as referred to in section 320.136.
3. The state fire marshal, the marshal's deputies, the marshal's designees or any authorized police or peace officer shall seize as contraband any illegal fireworks as defined pursuant to sections 320.106 to 320.161. Such illegal fireworks seized in the enforcement of sections 320.106 to 320.161 shall be held in custody of the state fire marshal in proper storage facilities. The person surrendering the fireworks may bring an in rem proceeding in the circuit court of the county where the fireworks were seized. Upon hearing, the circuit court may authorize the return of all or part of the confiscated fireworks or the court may authorize and direct that such contraband fireworks be destroyed. If a proceeding is not brought within thirty days, the fireworks shall be destroyed by the state fire marshal. The state fire marshal shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of the provisions of sections 320.106 to 320.161. All costs, including any expenses incurred with the seizure, shall be the responsibility of the adjudicated party if case disposition is in the favor of the state fire marshal.
4. Any person aggrieved by any official action of the state fire marshal affecting their permit status including revocation, suspension, failure to renew a permit, or refusal to grant a permit may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo.

320.121.***Powers of cities and certain counties to regulate or prohibit fireworks.***

1. The provisions of sections 320.106 to 320.161 shall not be construed to abrogate or in any way affect the powers of the following political subdivisions to regulate or prohibit fireworks within its corporate limits:
 - (1) Any city, town, or village in this state; or
 - (2) Any county operating under a charter form of government.
2. It is unlawful for any manufacturer, distributor, wholesaler, jobber or seasonal retailer to sell or ship by common carrier fireworks to consumers within the corporate limits of the following political subdivisions which prohibit the sale or possession of fireworks:
 - (1) Any city, town, or village in this state; or
 - (2) Any county operating under a charter form of government.

320.122.***Supremacy clause--regulation of fireworks (St. Louis County).***

Where regulations or prohibitions of the sale of fireworks are adopted by any first class county operating under a charter form of government and which contains a population in excess of nine hundred thousand inhabitants, such regulations or prohibitions shall supersede, as to those matters to which this section relates, all municipal ordinances, rules and regulations within the boundaries of such first class chartered county, but only to the extent such regulations or prohibitions are more restrictive than those adopted by a municipality located within such county.

320.126.***Special fireworks--possession and sale of limited, how, to whom--displays, financial responsibility, proof of--inspection of certain venues.***

1. Any person, entity, partnership, corporation, or association transporting display or proximate fireworks or display and proximate fireworks into the state of Missouri for the purpose of resale or to conduct a display shall be permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.
2. Sale of display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued by the state fire marshal.
3. Possession of display or proximate fireworks for resale to holders of a permit for display or proximate fireworks shall be confined to holders of a state manufacturer or distributor permit and applicable federal license or permit.
4. Permits for display or proximate fireworks may be granted to municipalities, fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local fire service authorities of the community where the display is proposed to be held. All applications submitted for display or proximate fireworks permits must be submitted to the office of the state fire marshal a minimum of ten working days prior to the date of the event. The application shall be made on a form provided or approved by the state fire marshal. Every such display shall be supervised, managed, or directed by a Missouri licensed operator, or pyrotechnic operator on site pursuant to subdivisions* (11) and (18) of section 320.106 and shall be located, discharged, or fired so as in the opinion of the permitting authority, after proper inspection based on the most current edition of the National Fire Protection Association standards, NFPA 1123, 1124, and 1126, to not be hazardous to any person or property. After a permit has been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. A copy of all permits issued for display or proximate fireworks shall be forwarded by the permit holder to the state fire marshal's office. No permit granted hereunder shall be transferable and shall apply to only one location. No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.
5. Possession of display or proximate fireworks shall be limited to a holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks is proposed to be held or the state fire marshal or holder of a state manufacturer or distributor permit and applicable federal license or permit.
6. Before issuing any permit for a display or proximate fireworks, the municipality, fair association, amusement park, organization, firm, persons, or corporation making application therefor shall furnish proof of financial responsibility in an amount established by promulgated rule to the permitting authority in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof.
7. Any establishment where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local fire department having jurisdiction for compliance with NFPA 101 Life Safety Code or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems. All permits issued will be forwarded to the state fire marshal by the permit holder. Permits will be issued in the same manner as those required in this section.

320.131.***Possession, sale and use of certain fireworks prohibited--restrictions --label required--items not regulated.***

1. It is unlawful for any person to possess, sell or use within the state of Missouri, or ship into the state of Missouri, except as provided in section 320.126, any pyrotechnics commonly known as "fireworks" and defined as consumer fireworks in subdivision (3) of section 320.106 other than items now or hereafter classified as fireworks UNO336, 1.4G by the United States Department of Transportation that comply with the construction, chemical composition, labeling and other regulations relative to consumer fireworks regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public pursuant to such commission's regulations.
2. No wholesaler, jobber, or seasonal retailer, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UNO336, 1.4G by the United States Department of Transportation.
3. No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer dealers, or any other person, in this state for the purpose of resale, or use, in this state, any consumer fireworks which do not have the numbers and letter "1.4G" printed within an orange, diamond-shaped label printed on or attached to the fireworks shipping carton.
4. This section does not prohibit a manufacturer, distributor or any other person possessing the proper permits as specified by state and federal law from storing, selling, shipping or otherwise transporting display or proximate fireworks.
5. Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound, provided that they are so constructed that the hand cannot come into contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of explosive mixture shall be permitted for sale and use at all times and shall not be regulated by the provisions of sections 320.106 to 320.161.

320.136.***Ground salutes, special type, prohibited.***

Ground salutes commonly known as "cherry bombs", "M-80's", "M-100's", "M-1000's", and any other tubular salutes or any items described as prohibited chemical components or forbidden devices as listed in the American Pyrotechnics Association Standard 87-1 or which exceed the limits set for consumers fireworks, display fireworks, or proximate fireworks for explosive composition are expressly prohibited from shipment into, manufacture, possession, sale, or use within the state of Missouri for consumer use. Possession, sale, manufacture, or transport of this type of illegal explosive shall be punished as provided by the provisions of section 571.020, RSMo.

320.141.***Permissible items of consumer fireworks, how sold, when.***

Permissible items of consumer fireworks defined in section 320.131 may be sold at wholesale or retail by holders of a jobber's permit to nonlicensed buyers from outside the state of Missouri during a calendar year from the first day of January until the thirty-first day of December. Permissible items of consumer fireworks defined in section 320.131 may be sold at retail by holders of a seasonal retail permit during the selling periods of the twentieth day of June through the tenth day of July and the twentieth day of December through the second day of January.

320.146.***Display and storage of fireworks, restrictions on.***

1. It shall be unlawful to expose fireworks to direct sunlight through glass to the merchandise displayed, except where the fireworks are in the original package. All fireworks which the public may examine shall be kept for sale in original packages, except where an attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in showcases out of the reach of the public when an attendant is not on duty. One or more signs reading, "FIREWORKS--NO SMOKING" shall be displayed at all places where fireworks are stored or sold in letters not less than four inches in height.
2. Fireworks shall not be manufactured, stored, kept or sold within fifty feet of any motor vehicle fuel dispensing station dispenser, retail propane dispensing station dispenser, compressed natural gas dispensing station dispenser, gasoline or propane bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon. The provisions of this subsection shall not apply to stores where cleaners, paints, and oils are sold in the original containers to consumers.
3. It shall be unlawful to permit the presence of lighted cigars, cigarettes, pipes, or any other open flame within twenty-five feet of where fireworks are manufactured, stored, kept, or offered for sale.

320.151.***Sales to children, sales by children, unlawful, exceptions--exploding fireworks near gasoline pumps, certain buildings or from or at motor vehicles, prohibited--certain restrictions--demonstrating and testing allowed, requirements.***

1. It is unlawful to attempt to sell or to sell at retail any fireworks to children under the age of fourteen years except when such child is in the presence of a parent or guardian.

2. It is unlawful for any person under the age of sixteen to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless supervised by an adult.
3. It is unlawful to explode or ignite consumer fireworks within six hundred feet of any church, hospital, mental health facility, school, or within one hundred feet of any location where fireworks are stored, sold, or offered for sale.
4. No person shall ignite or discharge any permissible articles of consumer fireworks within or throw the same from a motorized vehicle including watercraft or any other means of transportation, except where display permit has been issued for a floating vessel or floating platform, nor shall any person place or throw any ignited article of fireworks into or at a motorized vehicle including watercraft or any other means of transportation, or at or near any person or group of people.
5. No person shall ignite or discharge consumer fireworks within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, gasoline filling station, or any nonpermanent structure where fireworks are stored, sold or offered for sale.
6. No items of explosive or pyrotechnic composition other than fireworks as defined by subdivisions* (3), (5), and (17) of section 320.106 shall be displayed, sold, or offered for sale within the applicable permit location as identified on such permit granted by the state fire marshal.
7. Proximate fireworks shall not be allowed to be stored with consumer fireworks.
8. All storage and transportation of fireworks shall be in accordance with all federal and state rules and regulations.
9. Nothing in sections 320.106 to 320.161 shall be construed to prevent permittees from demonstrating or testing fireworks. Any such demonstration or test shall require the notification and approval of the local fire service or the state fire marshal.

320.156.

Items and activities not subject to provisions of sections 320.106 to 320.161.

Nothing in sections 320.106 to 320.161 shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or of this state or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, provided* the items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the state of Missouri.

320.161.

Penalty provisions.

Any person violating any provision of sections 320.106 to 320.161 is guilty of a class A misdemeanor, except that a person violating section 320.136 is guilty of a class C felony.

Division of Fire Safety

Fireworks Regulations

It must be noted that state statutory language takes precedent over the requirements in promulgated rules. Until such time as these rules are amended, changes in Missouri fireworks statutes are indicated in bold text in the following rules with language which has been removed from statute indicated by strike-through text.

11 CSR 40-3.010 Fireworks Licensing, Permits, Sales, Inspection, and Penalties

PURPOSE: This rule explains the licensing/permit process for the sales, discharge, possession and inspections associated with consumer, display and proximate fireworks.

- (1) The following definitions shall be used in interpreting this rule:
- (A) *American Pyrotechnics Association (APA), Standard 87-1 (2004), PO Box 30438 Bethesda, MD 20824-0348; as incorporated by reference is a standard for manufacturers, importers and distributors of fireworks to assist them in accordance with applicable federal laws;*
 - (B) Chemical composition, all pyrotechnic and explosive composition contained in fireworks devices as defined in *American Pyrotechnics Association (APA), Standard 87-1;*
 - (C) Consumer fireworks, explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, **(Changed by statute 2012:) within 49 CFR Part 172; 1.4G by regulation of the United States Department of Transportation, Title 49 CFR (2003), 400 7th Street S.W., Washington, D.C. 20590, as incorporated by reference, and which were formerly classified as class C common fireworks by regulation of the United States Department of Transportation;**
 - (D) Discharge site, the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;
 - (E) Display site, the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;
 - (F) Display fireworks, explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two (2) grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, **(Changed by statute 2012:) UN0333 or UN0334 or UN0335, within 49 CFR Part 172 UN0335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation;**
 - (G) Distributor, any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, RSMo including any person that imports any fireworks of any kind in any manner into the state of Missouri;
 - (H) Fireworks, any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR part 171 to end, United States Department of Transportation hazardous materials regulations, **(Changed by statute 2012:) and American Pyrotechnics Association, Standard 87-1;**
 - (I) Fireworks season, the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;
 - (J) Illegal fireworks include fireworks whose explosive composition exceeds the limits for consumer fireworks, **(Changed by statute 2012) display fireworks or proximate fireworks, UN0336, 1.4G, UN0335, 1.3G and UN0431, 1.4G or UN0432, 1.4S by the United States Department of Transportation, and American Pyrotechnics Association, Standard 87-1** including ground salutes commonly known as cherry bombs, M-80's, M-100's, M-1000's or other fireworks designated with an 'M' prefix whose explosive composition exceeds the limits for consumer fireworks, **display fireworks, or proximate fireworks by the United States Department of Transportation;**
 - (K) Jobber, any person engaged in the business of making sales of consumer fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;
 - (L) Licensed operator, any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;
 - (M) Manufacturer, any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;
 - (N) NFPA, National Fire Protection Association, Standards 101 (2003 edition) as used in setting standards for proximate fireworks; 1123 (2000 edition); 1124 (2003 edition) as used in setting standards for display and proximate fireworks; and 1126 (2001 edition);

- (O) Permanent structure, buildings and structures with permanent foundations other than tents, stands, mobile homes, and trailers;
- (P) Permit, the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161, RSMo, to sell, possess, manufacture, discharge, or distribute fireworks;
- (Q) Person, any corporation, association, partnership or individual or group thereof;
- (R) Proximate fireworks, a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as **(Changed by statute 2012:) classified within 49 CFR Part 172 as UN0431 or UN0432** ~~defined by the most current edition of the American Pyrotechnics Association (APA), Standard 87-1, section 3.8, specific requirements for theatrical pyrotechnics;~~
- (S) Pyrotechnic operator or special effects operator, an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;
- (T) Sale, an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;
- (U) Seasonal retailer, any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subsection (I) of this section;
- (V) Wholesaler, any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

General Requirements: Licenses, Permits and Fees.

- (A) Each firm or person engaged in the manufacture, transportation, wholesale or retail sales of consumer fireworks, public displays utilizing fireworks **(Changed by statute 2012) display 1.3G**, proximate and consumer fireworks, proximate fireworks 1.4S theatrical, pyrotechnic special effects operators, licensed display fireworks operator shall have an applicable license or permit issued by the state fire marshal.
 - 1. License by type:
 - A. Licensed operator, a fee of one hundred dollars (\$100) for three (3)-year license; and
 - B. Pyrotechnic or special effects operator, a fee of one hundred dollars (\$100) for three (3)-year license.
 - 2. Permits by type:
 - A. Manufacturer, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;
 - B. Distributor, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;
 - C. Wholesaler, fee of two hundred seventy-five dollars (\$275) per calendar year per location;
 - D. Jobber, a fee of five hundred twenty-five dollars (\$525) per calendar year per location;
 - E. Seasonal retailer, a fee of fifty dollars (\$50) per calendar year per sales location;
 - F. Display fireworks, a fee of one hundred dollars (\$100) per calendar year per location;
 - G. Proximate fireworks display, a fee of one hundred dollars (\$100) per calendar year per location.
- (B) All fees shall be paid by cash, money order, or check payable to the Missouri Division of Fire Safety and are nonrefundable or nontransferable except for overpayments resulting from mistakes of law or fact.
- (C) All permits except for seasonal retailer shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December each year.
- (D) Seasonal retail permit(s) shall be valid from the twentieth day of June through the tenth day of July of the same year and the period beginning on the twentieth day of December through the second day of January of the next year.
- (E) No seasonal retail, wholesaler or jobber permit shall be issued to a person under the age of eighteen (18) years.
- (F) No manufacturer or distributor permit shall be issued to a person under the age of twenty-one (21) years.
- (G) No permit or license shall be transferable nor shall a person operate under a permit or license issued to another person or location.
- (H) All original permits issued shall be made available for review at the location for which it was issued.
- (I) Manufacturer, wholesaler, jobber and distributor permit holders operating out of multiple locations shall obtain a permit for each location.
- (J) Upon determining that an applicant has furnished or supplied false information in applying for a license or permit or attempting to renew a license or permit, or has failed to notify the state fire marshal of any change in the information supplied in an application, the state fire marshal may refuse to license or permit the applicant or may revoke or suspend any license or permit issued to the applicant for a period of not more than three (3) years.

- (K) The state fire marshal may refuse to issue a license or permit to any applicant when the permit or license of the individual, corporation or partner is under suspension or revocation. The state fire marshal may also refuse to issue a license or permit to a person who is a partner, shareholder, manager, officer, spouse or relative of the applicant or a party to the applicant or is in a position to obtain any financial gain should the application be granted during the period of suspension or revocation.
- (L) The state fire marshal may refuse to issue a license or permit for a period not to exceed three (3) years to an applicant whose license or permit has been revoked for the possession or sale of illegal fireworks as referred to in section 320.136, RSMo.
- (M) In addition to any other penalty, any person who manufacturers, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into Missouri for use in Missouri any items of fireworks without first having obtained the applicable permit or license shall be assessed a civil penalty of up to a one thousand dollar (\$1,000) fine for each day of operation up to a maximum of ten thousand dollars (\$10,000).
- (N) Any person aggrieved by any official action of the state fire marshal affecting their license or permit status including revocation, suspension, failure to renew or refusal to issue a license or permit may seek a determination by the Administrative Hearing Commission pursuant to the provisions of section 621.045, RSMo.

(3) Applications for Permit: Manufacturer, Distributor, Wholesaler, Jobber, Seasonal Retail.

- (A) Applications for a permit shall be on forms provided by the state fire marshal and shall be accompanied by the appropriate fee and documentation as required.
 - 1. Copy of Missouri retail sales tax license.
 - 2. Copy of current certificate of No Tax Due for the preceding year obtained from Missouri Department of Revenue, except if the applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.
 - 3. If applicable, copy of .Certificate of Good Standing from Missouri Secretary of State.
 - 4. If applicable, copy of federal license or permit.
- (B) Failure to make application for seasonal retail permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a permit to the applicant for such calendar year.
- (C) Every application for a permit to sell fireworks shall be signed by the permittee or a responsible agent for the permittee who, by signing the application, acknowledges that the permittee will take reasonable steps to see that all employees, agents and officers of the permittee will be familiar with all rules applicable to fireworks operations and will abide by those rules.

(4) Requirements: Manufacturer, Distributor, Jobber or Wholesaler.

- (A) A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell display or proximate fireworks.
- (B) A holder of a distributors permit shall not be required to have any additional permit in order to sell consumer fireworks to wholesalers, jobbers, seasonal retailers, consumers during the fireworks season or to sell display or proximate fireworks.
- (C) A holder of a jobbers permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobbers permanent structure.
- (D) Any wholesale transaction by a manufacturer, distributor, wholesaler or jobber to any seasonal retailer doing business in Missouri shall be permitted only if the purchaser has been issued a seasonal retail permit from the state fire marshal as a seasonal retailer.
- (E) Any sales by jobbers to non-permitted persons or entities during any period of time other than the fireworks season as defined in section 320.106(3), RSMo, shall be to nonresidents of Missouri, or to residents of Missouri only after a reasonable inquiry and a waiver signed by the buyer on a form provided by the state fire marshal indicating that the fireworks are for use outside of Missouri if the sale is a retail transaction.
- (F) A holder of a manufacturer, distributor, wholesaler or jobbers permit shall be required to operate out of a permanent structure in compliance with applicable building and fire regulations in the city or county where located.
- (G) Any person engaged in more than one (1) permit classification shall pay one (1) permit fee based upon the permit classification yielding the highest amount of revenue.
- (H) Any person, entity, partnership, corporation, or association transporting display or proximate fireworks into Missouri for the purpose of resale, or to conduct a (*Changed by statute 2012*) **display** ~~4-36~~ fireworks display, or to conduct a proximate fireworks display shall be permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.

- (I) Sale of display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued by the state fire marshal.
- (J) No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.
- (K) No wholesaler or jobber, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UN0336, or 1.4G by the United States Department of Transportation.
- (L) Possession of display or proximate fireworks for resale to holders of a permit for display or proximate fireworks shall be confined to a holder of a manufacturer or distributor permit and applicable federal license or permit.
- (M) No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retail dealers, or any other person in this state for the purpose of resale, or use in this state, any consumer fireworks which do not have the numbers and letter .1.4G. printed with an orange diamond shaped label printed on or attached to the fireworks shipping carton.
- (N) Possession of display or proximate fireworks shall be limited to:
 1. A holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks display is proposed to be held; or
 2. A holder of a display or proximate fireworks permit issued by the state fire marshal; or
 3. A holder of a state manufacturer or distributor permit and applicable federal license or permit.

(5) Requirements: Seasonal Retail Sales.

- (A) A seasonal retail permit shall be required for each retail sales location.
- (B) Consumer fireworks UN0336, 1.4G shall be sold to the general public only from permitted seasonal retail sites and only during the fireworks season as defined in section (1) of this rule.
- (C) It is unlawful to attempt to sell or to sell any fireworks to children under the age of fourteen (14) years except when such child is in the presence of a parent or guardian.
- (D) It is unlawful for any person under the age of sixteen (16) to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless under the supervision of an individual at least eighteen (18) years of age.
- (E) Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations and may be subject to a fire safety inspection by the state fire marshal per section (7) of this rule.
- (F) A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer provided that such retailer is purchasing the consumer fireworks for resale in this state.

(6) General Requirements: Fireworks Safety/Authority to Inspect.

- (A) Fireworks shall not be stored, kept, or sold within fifty feet (50') of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon.
- (B) Fireworks shall not be manufactured, stored, kept or sold (**Changed by statute 2007**) **fifty feet (50')** ~~one hundred feet (100')~~ of any dispensing unit for ignitable liquids or gases.
- (C) It is unlawful to explode or ignite consumer fireworks within six hundred feet (600') of any church, hospital, mental health facility, or school or within one hundred feet (100') of any location where fireworks are stored, sold or offered for sale.
- (D) No person shall ignite or discharge fireworks within three hundred feet (300') of any permanent storage of ignitable liquid, gases, gasoline pump, and gasoline filling station.
- (E) No person shall ignite or discharge any fireworks within or throw the same from or into a motorized vehicle including watercraft or any other means of transportation or at or near any person or group of people, except where display permit has been issued for a floating vessel or floating platform.
- (F) All person(s) selling or offering fireworks for sale or barter or trade will permit the state fire marshal and the marshal's deputies to conduct inspections, based on Code of State Regulations, of the business premises or any location where

fireworks are stored or kept and will cooperate with any inspection or investigation. Failure to cooperate or refusal to allow an inspection shall result in suspension or revocation of the permittee's permit(s) or refusal of a permit to be issued. This inspection shall be performed during normal business hours.

(7) Requirements: Fire Safety Inspection

Retail Sales.

(A) Portable Fire Extinguishers.

1. Every seasonal retail sales location shall have not less than two (2) portable fire extinguishers with a minimum 2A rating, at least one (1) of which shall be a pressurized water type.
2. Temporary seasonal retail sales locations less than two hundred (200) square feet in area shall be required to have at least one (1) portable fire extinguisher with a minimum 2A rating.
3. The maximum travel distance to a fire extinguisher in any seasonal retail sales location shall be no greater than thirty-five feet (35').
4. All fire extinguishers shall be inspected annually by a fire extinguisher company and have documentation to this effect attached to them.
5. All fire extinguishers shall be located in an accessible location to the staff.
6. Employees shall be trained to operate fire-extinguishing equipment and shall be required to exhibit their skill when requested by the authority having jurisdiction.

(B) Site Requirements.

1. The authority having jurisdiction shall require a certificate or other evidence of acceptance by an organization or laboratory of recognized standing or manufacturer verifying that the tent fabric material has been treated with a flame resistant material.
2. No hay, straw, shavings, or similar combustible materials that have not been treated to make them flame retardant shall be permitted within any seasonal retail sales location.
3. The area located within thirty feet (30') of a retail sales location shall be kept free of accumulated dry grass, dry brush, and combustible debris.
4. Fireworks shall not be displayed or stored behind glass through which direct sunlight will shine on the fireworks except for where the fireworks are in their original package.
5. Fireworks shall be kept in a location out of the reach of the public when an attendant is not on duty.
6. Seasonal retail sales locations shall be secured when unoccupied and not open for business.

(C) Fireworks Discharge.

1. Fireworks shall not be ignited, discharged, or otherwise used within one hundred feet (100') of any location where fireworks are stored, sold, or offered for sale.
2. At least one (1) sign that reads as follows, in letters at least four inches (4") high on a contrasting background, shall be conspicuously posted at each entrance of seasonal retail sales locations: NO FIREWORKS DISCHARGE WITHIN 100 FEET

(D) No Smoking Signs.

1. Smoking shall not be permitted inside or within twenty-five feet (25') of the seasonal retail sales area.
2. One (1) or more signs reading, FIREWORKS NO SMOKING shall be displayed at each entrance of seasonal retail sales locations in letters not less than four inches (4") in height on a contrasting background.

(E) Separation Distances.

1. No motor vehicle shall be parked within ten feet (10') of a seasonal retail sales location.
2. No trailer used for the storage of consumer fireworks shall be parked within ten feet (10') of a seasonal retail sales location.
3. Temporary seasonal retail sales stands and tent side walls shall not be located within twenty feet (20') of the following, unless authorized by the authority having jurisdiction:
 - A. Another building;
 - B. Another seasonal retail sales location;
 - C. Cooking equipment of any type.
4. Seasonal retail sales locations shall not be located within fifty feet (50') of the following:
 - A. Any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon;
 - B. Compressed natural gas dispensing facilities;
 - C. Retail propane dispensing station;
 - D. Aboveground storage tanks for flammable or combustible liquid, flammable gas or flammable liquefied gas;
 - E. Any type of open flame cooking equipment.
5. Portable generators shall be located not less than twenty feet (20') from a seasonal retail sales location.

(F) Means of Egress.

1. All means of egress from any temporary seasonal retail sales tent or stand shall remain clear and free of obstructions.

2. A minimum of two (2) remote means of egress shall be located in a seasonal retail sales location.
3. Exits provided for temporary seasonal retail sales stands shall be arranged so that the maximum egress travel distance does not exceed thirty-five feet (35').
4. Exits provided for seasonal retail tents shall be arranged so that the maximum egress travel distance measured from the most remote point to an exit along the natural and unobstructed path of egress travel does not exceed seventy-five feet (75').
5. Aisles within a temporary seasonal retail sales tent, where the interior is accessible to the public, the minimum clear width shall be permitted to be not less than forty eight inches (48").
6. Aisles within a temporary seasonal retail sales stand, where the interior is not accessible to the public, the minimum clear width shall be permitted to be not less than twenty-eight inches (28").
7. The required width of aisles shall be maintained unobstructed at all times the facility is occupied by the public.
8. Dead end aisles shall be prohibited.
9. Exit openings from seasonal retail sales tents shall be not less than forty-four inches (44") in width.
10. Egress doors in temporary seasonal retail sales stands where the interior is not accessible to the public shall be permitted to be not less than twenty-eight inches (28") in width.
11. Egress doors in temporary seasonal retail sales stands where the interior is accessible to the public shall be permitted to be not less than thirty-six inches (36") in width.
12. No fireworks shall be displayed for sale or stored within two feet (2') of any public exit, or private entrance or exit in an enclosed building.

(G) Exit Signs and Emergency Lighting.

1. Exit signs shall be required to be self luminous or internally or externally illuminated.
2. Exit signs shall not be required to be illuminated in tents or stands that are not open for business after dusk or in temporary seasonal retail sales stands where the interior is not accessible to the public.
3. Emergency lighting shall not be required in tents or stands that are not open for business after dusk or for temporary seasonal retail sales stands where the interior is not accessible to the public.
4. Emergency lighting shall be required in seasonal retail sales locations when the retail sales area is eight hundred (800) square feet or greater.

(H) Electrical Equipment.

1. The electrical system and equipment shall be isolated from the public by proper elevation or guarding, and all electrical fuses and switches shall be enclosed in approved enclosures.
2. Electrical cables, including extension cords on the ground in areas traversed by the public shall be placed in trenches or protected by approved covers.
3. All extension cords shall be a minimum fourteen (14) gauge and multi-outlet power strips shall be UL approved and of the grounding type.
4. All multi-outlet power strips shall be UL approved and of the type with a circuit breaker for overload protection.
5. All electrical wiring, equipment, and devices shall be UL approved, installed and maintained to prevent electrical hazards.
6. All electrical lighting shall be UL approved, mounted and installed in a safe manner.
7. Branch circuits for receptacles, lighting and other uses shall be protected by ground fault circuit interrupters if susceptible to water exposure.
8. The power distribution panel shall be properly grounded with a minimum #6 solid copper wire connected to a copper clad ground rod. The ground wire must be connected to the ground rod using a UL approved ground rod clamp with the clamp being visible.

(I) Prohibited Activity/Items.

1. The retail sales of pest control devices, including their related storage and display shall be prohibited.
2. No electronic pest control device(s) shall be located inside a seasonal retail sales location.
3. The consumption or possession of alcoholic beverages in any seasonal retail sales location is prohibited during business hours.
4. Any person selling fireworks shall not knowingly sell consumer fireworks to any person who is obviously under the influence of alcohol or drugs.
5. Proximate and display fireworks shall not be allowed to be sold with consumer fireworks.

(8) Permit Requirements: Discharging Display or Proximate Fireworks.

Permit(s) for display or proximate fireworks may be granted to municipalities, fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local authority having jurisdiction where the display is proposed to be held.

1. Application for a permit to conduct a display/proximate fireworks show issued by the state fire marshal shall meet the following requirements and be on a form provided by the state fire marshal:
 - A. Applicant shall be at least twenty-one (21) years of age;
 - B. The permit shall be issued per location per calendar year, except
 - (I) Any change from the original site plan relating to distances, mortar size, mortar installation, firing method, etc. shall require a new application and submission of an additional permit fee;
 - C. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of initial application for permit;

- D. Identity of state licensed display/pyrotechnic operator shall be provided;
 - E. Applicant shall submit proof of insurance coverage insuring the applicant with liability insurance in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof with an occurrence limit of not less than one (1) million dollars. Additionally, insurance coverage of an employer for whom the individual is employed shall be considered to comply with the aforementioned, if the coverage provides equivalent coverage for each employee;
 - F. If applicant is conducting a display under the auspices of a municipality or political subdivision the applicant shall be exempt from liability insurance coverage if the municipality or political subdivision possesses liability insurance covering the applicant with an occurrence limit of not less than one (1) million dollars;
 - G. Applicant shall submit a detailed site plan, to include but not be limited to distance requirements per NFPA, firing method, mortar installation and product being used along with the name of the licensed or pyrotechnic operator to the state fire marshal a minimum of ten (10) working days prior to the date of the event;
 - H. Upon request applicant shall provide Material Safety Data Sheets (MSDS) relating to the products being used;
 - I. No permit granted shall be transferable;
 - J. The permit shall apply to only one (1) location.
2. A copy of a display or proximate fireworks permit issued by the local authority having jurisdiction shall be submitted by the permit holder to the state fire marshal within forty-five (45) days of the display or upon request of the state fire marshal.
 3. Any venue where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126.
 4. Any establishment where proximate fireworks are to be discharged indoors shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126 and NFPA 101 *Life Safety Code* or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems.
 5. Provisions shall be made for adequate fire protection at a level determined by the jurisdiction where the display is to be conducted.
 6. Safety monitors shall be required per NFPA 1123 and/or NFPA 1126.
 7. This subsection shall not preclude a political subdivision, county or city from imposing by ordinance the requirement to notify local authorities of the intent to conduct such display.

(9) Licensed/Pyrotechnic Display Operator.

- (A) Every fireworks display or proximate fireworks display shall be supervised, managed, or directed by a Missouri state licensed operator or pyrotechnic operator on-site.
- (B) Licensed/pyrotechnic display operators shall complete and submit, on a form provided by the state fire marshal a licensed/pyrotechnic display operator application and meet the minimum requirements listed below:
 1. Applicant shall be at least twenty-one (21) years of age;
 2. Applicant shall not have a felony conviction or have pleaded guilty to a felony;
 3. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of application for licensure;
 4. Applicant shall provide two (2) passport type photographs per license requested;
 5. The state fire marshal will consider the following criteria in determining whether to issue a license to the applicant under the provisions of this rule:
 - A. Documentation that applicant has attended courses relating to pyrotechnics;
 - B. An applicant shall submit evidence of experience, which must include active participation as an assistant or operator in the performance of at least three (3) fireworks displays or proximate fireworks displays, at least one of which must have occurred in the current or preceding year;
 - C. Applicant shall complete a written examination administered by the state fire marshal and achieve a passing score of at least seventy percent (70%).
 - (I) Any person failing to pass the examination may retake the examination after a thirty (30)-day waiting period.
 - (II) Any person failing to pass the examination a second time may retake the examination after a ninety (90)-day waiting period;
 - D. Any licenses or certifications from other jurisdictions or licensing entities approved by the state fire marshal;
 - E. References from local authorities, sponsors, employers, and fireworks/pyrotechnic companies;
 - F. Copy of U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives permit/ license if applicable;
 6. To obtain recertification, the applicant shall be required to meet the following criteria:
 - A. Provide documentation that applicant has attended a minimum of twelve (12) hours of continuing education relating to pyrotechnics within the past three (3) years.
 - B. Provide documentation of actively participating in at least three (3) fireworks displays or proximate fireworks displays.
 - C. A fee of one hundred dollars (\$100) shall be paid at the time of recertification to the state fire marshal;
 7. The licensee shall carry his/her license at all times when engaging in pyrotechnic display activity;

8. Each license issued pursuant to this section shall specify the licensee's name, state issued license number, the license's effective date and expiration date and photograph;
9. In any case where the state fire marshal denies, suspends or revokes a license, a written notice of the basis for the denial, suspension or revocation shall be provided to the applicant or license holder;
10. Upon notice of revocation or suspension, the license holder shall surrender the license and all copies thereof to the state fire marshal immediately. No person shall supervise a fireworks display or proximate display once their license has been revoked or suspended;
11. Upon notice of denial, suspension or revocation of a license, the decision may be appealed in writing to the state fire marshal within forty-five (45) days of the denial, suspension or revocation requesting an administrative hearing pursuant to the provisions of section 621.045, RSMo;
12. The state fire marshal may deny, suspend or revoke licensure of any applicant when it is found that the applicant or licensee:
 - A. Has knowingly made a material misrepresentation of any information required for licensure;
 - B. Has knowingly by any means of false pretense, deception, fraud, misrepresentation or cheating obtained training or licensure;
13. No person shall handle display/proximate fireworks or cause any person to handle or discharge display/proximate fireworks in this state unless such use of display/proximate fireworks are under the direct supervision and responsibility of a state licensed operator or pyrotechnic operator pursuant to this rule. Persons working under the direct supervision of a licensed operator or pyrotechnic operator at the site shall not be in violation of this rule.

(10) Violations.

- (A) A permittee will receive a written warning from the state fire marshal for violation of any of the following:
 1. Failing to properly display a No Smoking sign(s);
 2. Failing to properly display a No Smoking sign(s) of sufficient size;
 3. Failing to properly display a permit or license;
 4. Selling or offering for sale fireworks that are not properly labeled;
 5. Exposing fireworks not in the original package to direct sunlight while displayed and unattended, as defined by section 320.146.1, RSMo;
 6. Leaving unattended fireworks accessible to the public;
 7. Attempting to make or making a sale of fireworks out of season as defined in section 320.106(9), RSMo to someone for use or distribution within the state of Missouri;
 8. Knowingly allowing an open flame or smoking within twenty-five feet (25') of a place where fireworks are manufactured, stored, kept, or offered for sale;
 9. Selling to a child under the age of fourteen (14) who is not in the presence of his/her parent or guardian;
 10. Receiving fireworks without a permit if the permittee was permitted but failed to renew;
 11. Selling fireworks without a permit if the permittee was permitted but failed to renew;
 12. Selling from other than a permanent structure, except for retail sales during fireworks seasons;
 13. Storing fireworks too close to volatile liquids or gases, as defined by section 320.146(2), RSMo;
 14. Selling or shipping fireworks to a consumer within a city or county lawfully prohibiting the sale or possession of fireworks pursuant to section 320.121, RSMo;
 15. Employing a person less than sixteen (16) years of age who is unsupervised;
 16. Selling or offering for sale or displaying fireworks to consumers that are marked other than UN0336, 1.4G;
 17. Failure of distributors and manufacturers to retain copies of applicable permit(s) or license(s) issued for display and/or proximate fireworks transactions for one (1) year after the transaction;
 18. Selling fireworks for resale in this state to a distributor, manufacturer, jobber, wholesaler or seasonal retailer who has not first obtained their current permits as required by law.
- (B) Subsequent violation of any of the acts set forth in subsection (10)(A) will result in the suspension or revocation of the permit(s) of the permittee for a period as determined by the state fire marshal.
- (C) Violation of any of the following laws or regulations may result in the suspension or revocation of the permit(s) for a period not to exceed three (3) years and/or the refusal of the fire marshal to renew or issue a permit(s) to the permittee or owner:
 1. Selling or improperly possessing fireworks while the permit or license has been suspended or revoked;
 2. Allowing another person or business to use or display the license of a licensee;
 3. Possessing or manufacturing illegal fireworks or selling or offering for sale illegal fireworks as defined in section 320.136, RSMo;
 4. Failing or refusing to allow a reasonable inspection of any premises and all portions of buildings where fireworks are being stored or are being offered for sale. A reasonable request is one made either during daylight hours or while the premises or building are open for business;
 5. Failing to fully cooperate with a reasonable request during an inspection;
 6. Failure to obtain a permit for display or proximate fireworks site;
 7. Performing a display or proximate fireworks display without having obtained a licensed operator or pyrotechnic operator permit from the Missouri State Fire Marshal;
 8. Failure of the applicant to obtain all required permit(s) and/or license(s) required as per 320.111(1), RSMo.

- (D) The state fire marshal will indicate to the permit holder, in writing, the statute(s) and any regulations violated. Appeals from any decision of the state fire marshal will be made to the Administrative Hearing Commission, except in cases in which a charged violation includes a violation of the criminal laws.
- (E) The period of suspension or revocation imposed by the state fire marshal will remain in effect against the permit holder's future business, partnership, corporation or entity even if an attempt to change ownership or control of that permit holder's business, partnership, corporation or entity is made or attempted.
- (F) Persons found guilty of handling or discharging display/proximate fireworks, or directing, ordering or otherwise causing any person to handle or fire display/proximate fireworks in this state without having a valid license shall be guilty of a Class A misdemeanor.

(11) Incident Reporting; Licensed Operator/Pyrotechnic Operator Responsibility.

- (A) It is the responsibility of the licensed operator/pyrotechnic operator to immediately report any discharge related incident identified below to local law enforcement or fire service agencies and request such agency to notify the Office of the State Fire Marshal.
 - 1. Injury to any person requiring immediate medical treatment;
 - 2. A fire or damage to property in an amount reportable to the operator's insurance company;
 - 3. Loss of life.
- (B) After a reportable incident has occurred, the scene shall not be altered or tampered with in any manner unless authorized by the state fire marshal or designee, until an investigation/inspection can be completed.
- (C) Failure of the licensed operator/pyrotechnic operator to report an incident identified in this section may be subject to their license being suspended or revoked by the state fire marshal for a period of time not to exceed three (3) years.

*AUTHORITY: section 320.111.9, RSMo Supp. 2004. * Original rule filed Sept. 29, 1988, effective Feb. 24, 1989. Amended: Filed May 1, 1989, effective July 13, 1989. Emergency rescission and rule filed Aug. 31, 2004, effective Sept. 10, 2004, expired March 9, 2005. Rescinded and readopted: Filed Aug. 31, 2004, effective March 30, 2005.*